

July 20, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0300865**

DEVENDRA & PRABHA MALIK
Code Enforcement Appeal

Location: 10243 Southeast 208th Street

Appellant: **Devendra & Prabha Malik**
23438 – 94th Avenue South
Kent, WA 98031
Telephone: (253) 859-3930

King County: Department of Development and Environmental Services, *represented by*
Jim Toole
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7196
Facsimile: (206) 296-6604

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Appeal denied

EXAMINER PROCEEDINGS:

Hearing Opened:	July 20, 2004
Hearing Closed:	July 20, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. On May 17, 2004 King County Department of Development and Environmental Services, Code Enforcement Section, issued a notice and order to Devendra and Prabha Malik regarding property located at 10243 Southeast 208th Street. The notice and order cites the property for an accumulation of construction debris, metal barrels, cut vegetation, assorted junk, debris and garbage, and for maintaining a residence and partially demolished outbuildings open to entry in a manner which constitutes a hazard and a nuisance. Mr. Malik filed a timely appeal of the notice and order seeking more time to complete the cleanup work.
2. The staff testimony and photographs clearly support the citations within the notice and order. The back of the dilapidated and unoccupied house is open for entry. There is at least one collapsed shed nearby. There are accumulations of scrap lumber and dry limbs and brush piled under trees, and some of these piles are near residential properties on the south and eastern property lines. There are also a number of 55 gallon drums on the property whose contents have not yet been ascertained. Assistant Fire Marshal Gay Johnson has also visited the site and identified life-safety concerns due to dry season fire danger, the attractive nuisance of an open house on a vacant property, and the proximity of these conditions to a busy road and residences. The fire danger is expected to increase when the heavy green vegetation near the scrap piles dies and dries up.

CONCLUSIONS:

1. The citations contained within the May 17, 2004 notice and order are supported by the evidence of record. The appeal must be denied.
2. With the onset of dry weather conditions, the piles of scrap lumber, dry limbs and brush have become a fire hazard and must be removed promptly.

DECISION:

The appeal is DENIED.

ORDER:

1. No penalties shall be assessed against the Appellants or their property if all of the following deadlines are met:
 - a. Within 10 days of the date of this order all materials cited within the notice and order which do not require a Puget Sound Clean Air Agency permit for asbestos removal shall be cleared from the property. This includes removal of all scrap lumber, brush piles, 55 gallon drums, garbage, junk and debris. The Appellants shall have water available to the site during the removal process for dust suppression and fire safety.

- b. Within 14 days of the date of this order the Appellants shall obtain any Puget Sound Clean Air Agency permits required for asbestos removal and complete demolition and cleanup work pursuant to such permit within 10 days of the permit's issuance; provided that, DDES may extend the deadlines within this subparagraph if it determines that compliance with PSCAA requirements necessitates such an extension.
2. If the total site cleanup required above in condition no. 1 cannot be completed within 30 days, the Appellants shall provide temporary protective fencing along the site's northern property line.
3. If the Appellants shall fail to meet the deadlines or requirements stated above, DDES may assess penalties against them and their property retroactive to the date of this order.

ORDERED this 20th day of July, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 20th day of July, 2004, by certified mail to the following:

Devendra & Prabha Malik
23438 – 94th Avenue South
Kent, WA 98031

TRANSMITTED this 20th day of July, 2004, to the parties and interested persons of record:

Devendra & Prabha Malik
23438 - 94th Ave. S.
Kent WA 98031

Jeri Breazeal
DDES/LUSD
Code Enf. Section
MS OAK-DE-0100

Suzanne Chan
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Code Enf. Section
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE JULY 20, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0300865.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Jim Toole and Jeri Breazeal, representing the Department; and Devendra Malik, the Appellant, and Alex Perlman.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Staff report to the Hearing Examiner
- Exhibit No. 2 Copy of Notice & Order issued May 17, 2004
- Exhibit No. 3 Copy of Appeal received June 3, 2004
- Exhibit No. 4 Copies of Codes cited in the Notice & Order
- Exhibit No. 5 Copy of e-mail received on September 15, 2003 from David Malik
- Exhibit No. 6 Copy of letter dated March 25, 2004 received from Alex G. Perlman by fax on May 26, 2004
- Exhibit No. 7 Copy of a letter received from Assistant Fire Marshal on June 11, 2004
- Exhibit No. 8 Copy of regulations from Puget Sound Clean Air Agency; Article 4: Asbestos Control Standards and Article 8: Outdoor Burning
- Exhibit No. 9 Copy of area map and 2002 aerial photo of subject property from GIS
- Exhibit No. 10 Pictures of subject property taken May 10, 2004 by Jim Toole
- Exhibit No. 11 Letter from Alex G. Perlman dated July 12, 2004 to James Toole with photographs taken by Alex G. Perlman
- Exhibit No. 12 A series of photographs taken by Alex G. Perlman on July 16 & 17, 2004
- Exhibit No. 13 Bulletin obtained on line on obtaining a demolition permit
- Exhibit No. 14 Construction permit for demolition obtained by David Malik issued July 8, 2004

SLS:gao
E0300865 RPT